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7 DENYS NAMYSTIUK,
8 Plaintiff,
9 v.
10 SMITH BARNEY,
11 Defendant.

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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 Case No. 15-cv-03078-MEJ

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**ORDER FOR CLERK OF COURT TO
REASSIGN CASE WITH REPORT &
RECOMMENDATION**

25 On July 2, 2015, Plaintiff Denys Namystiuk filed a Complaint and Application to Proceed
26 In Forma Pauperis (“IFP”). As Plaintiff has now filed a declination to proceed before a magistrate
27 judge and a request for reassignment, the Clerk of Court shall REASSIGN this case to a District
28 Judge with the following recommendation.

29 Pursuant to 28 U.S.C. § 1915, a district court may authorize the commencement of a civil
30 action in forma pauperis if it is satisfied that the would-be plaintiff cannot pay the filing fees
31 necessary to pursue the action. 28 U.S.C. § 1915(a)(1). The policy for allowing a plaintiff to
32 proceed in forma pauperis is to protect litigants from abandoning “what may be a meritorious
33 claim in order to spare himself complete destitution.” *Adkins v. E.I. DuPont de Nemours & Co.*,
34 335 U.S. 331, 340 (1948). However, “[c]ourt permission to proceed in forma pauperis is itself a
35 matter of privilege and not right; denial of in forma pauperis status does not violate the applicant’s
36 right to due process.” *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984).

37 Under 28 U.S.C. § 1915(a)(1), a person submitting an application to proceed in forma
38 pauperis must include a statement of all assets demonstrating the person is unable to pay the court
39 costs and fees. An affidavit to proceed in forma pauperis is sufficient if it indicates “that one
40 cannot because of his poverty pay or give security for the costs and still be able to provide himself

1 and dependents' with the necessities of life." *Adkins*, 335 U.S. at 339.

2 In his IFP Application, Plaintiff states that he has received money in the past twelve
3 months from "business, self-employment," yet he does not provide the amount received. Dkt. No.
4 3. As the application does not comply with the requirements of 28 U.S.C. § 1915(a)(1), the
5 undersigned ordered Plaintiff to file a declaration by August 3, 2015, explaining this source of
6 income, the amount of money received, and the type of currency (e.g., U.S. Dollars, Ukrainian
7 hryvnia, etc.). Dkt. No. 6. However, if Plaintiff does not file a responsive declaration, the
8 undersigned finds that Plaintiff's current IFP Application does not establish he is unable to pay the
9 fees necessary to pursue this action. Accordingly, if Plaintiff fails to respond, the undersigned
10 RECOMMENDS the newly-assigned judge deny Plaintiff's IFP Application.

11 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2), Plaintiff
12 file any objections within 14 days after being served.

13 **IT IS SO ORDERED.**

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15 Dated: July 27, 2015

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18 MARIA-ELENA JAMES
19 United States Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 DENYS NAMYSTIUK,
2 Plaintiff,

3 v.

4 SMITH BARNEY,
5 Defendant.

6 Case No. 15-cv-03078-MEJ

7 **CERTIFICATE OF SERVICE**

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9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11 That on July 27, 2015, I SERVED a true and correct copy(ies) of the attached, by placing
12 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
13 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
receptacle located in the Clerk's office.

14
15 Denys Namystiuk
16 Mate Zalka, 6B, 74
Kyiv, 04211
Ukraine

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18 Dated: July 13, 2015

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20 Richard W. Wierking
21 Clerk, United States District Court

22 

23
24 Chris Nathan, Deputy Clerk to the
Honorable MARIA-ELENA JAMES